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August 21, 2023

VIA ECF

United States District Court
Eastern District of New York
Attn: Hon. Orelia E. Merchant, U.S.D.J.
225 Cadman Plaza East
Courtroom 6C South
Brooklyn, NY 11201-1804

Re: Superb Motors Inc., et al. v. Deo, et al.
Case No.: 2:23-cv-6188 (OEM) (ST)

Dear Judge Merchant:

This firm represents Plaintiffs Superb Motors Inc. (“Superb”), Team Auto Sales LLC, and Robert Anthony Urrutia (collectively the “Moving Plaintiffs”) in the above-referenced case. I write to respectfully oppose Defendants’ letter motion for an extension of time (the “Letter”) to respond to the Moving Plaintiffs’ Order to Show Cause (the “Motion”) and to briefly address some of the issues raised in the Letter.

First, the Moving Plaintiffs’ Motion rests on facts and causes of action that differ from those claims interposed by the co-Plaintiffs, and it is important to note that the co-Plaintiffs have not sought injunctive relief in this Court.

Second, the co-Plaintiffs anticipate moving to discontinue the state court action and interposing their claims in that action in this case.

Third, Defendants’ request for an extension must be denied for several reasons.

As an initial matter, Defendants fail to comply with ¶ 1(F)(1), (2), and (3) of the Hon. Diane Gujurati’s¹ (“Judge Gujurati”) Individual Practice Rules. As such, this Court should disregard the Letter.

Further, the very purpose of the Motion is to secure *emergency* relief that cannot wait until September 5, 2023. Indeed, the floor plan lenders have issued demands for repayment if the vehicles cannot be returned to the dealership and irreparable injury will inure to the Moving Plaintiffs’ detriment barring prompt intervention. See copies of correspondence from a floor plan lender annexed hereto as **Exhibits “A” and “B.”**

For this reason, too, the Letter should be denied.

¹ At 4:14 PM today, Judge Gujurati recused herself from this case. See Text Only Order of Recusal dated August 21, 2023.

Finally, we respectfully submit that Defendant Harry Thomasson, Esq. (“Thomasson”) cannot serve as counsel for any party in this case. Not only is Thomasson a witness who maintained an office at Superb, but an active participant in the malfeasance – by, among other things, carrying files and a desk lamp off of Superb’s property on the day he and Defendant Anthony Deo, among others, were removed.

Because the advocate-witness rule requires Thomasson’s disqualification as counsel for the Defendants, Plaintiffs will file in short order a motion to so disqualify him. Given the disqualification issues raised above, Mr. Thomasson’s planned absence, and the significant personal circumstances involving an extremely ill son (whom we all wish well), the Defendants may be well advised not to rely on Mr. Thomasson to serve as counsel.

Accordingly, Defendants’ request for an extension must be denied. Plaintiffs thank this Court for its time and attention to this case.

Dated: Lake Success, New York
August 21, 2023

Respectfully submitted,

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